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India's Judiciary Has a Gender Problem — At the Bar and on the Bench

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India's Judiciary Has a Gender Problem — At the Bar and on the Bench

 Business Standard

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INTERVIEW ANGLE

"India has only one female Supreme Court judge out of 33 — is this primarily a pipeline problem (few women entering the legal profession), a structural discrimination problem within the profession, or a political appointment problem at the higher judiciary?"

THE CORE ARGUMENT

A Supreme Court Bar Association survey has exposed a stark reality: **over 80% of women lawyers find the legal profession difficult**, with women comprising just 15% of India's 1.7 million lawyers and barely 2% holding Bar Council leadership positions. Only one of 33 Supreme Court judges is a woman. The gender gap in India's legal system is not incidental — it is structural, beginning at the bar and culminating at the bench.

THE DATA: A SYSTEM OF EXCLUSION

METRIC	WOMEN'S SHARE
Enrolled lawyers (India)	~15%
Bar Council leadership positions	~2%
District court judges	~30% (improving)
High Court judges	~13%
Supreme Court judges	~3% (1 of 33)
Senior Advocates designated by SC	~5%

The funnel is broken at every level — from entry into the profession to elevation to the highest court.

ROOT CAUSES: STRUCTURAL BARRIERS

1. The Briefless Junior Problem

Young women lawyers disproportionately face “briefless junior” status — they cannot get senior advocates to take them on as juniors, limiting their access to the mentorship and courtroom experience essential for building a practice. Survey findings:

- **Gender bias in brief allocation:** Clients and seniors often prefer male advocates for “serious” matters
- **Unequal pay:** Female associates at law firms earn 15–25% less than male counterparts at equivalent levels

2. Infrastructure Failures

India’s courts — particularly district and high courts — lack:

- **Creche/childcare facilities** within court premises
- **Adequate women’s restrooms** in many older court complexes
- **Flexible hearing schedules** that accommodate childcare responsibilities

3. The Culture Problem

Legal culture in India — especially at the bar — is deeply hierarchical and male-dominated. Women lawyers report:

- **Condescending treatment** from male judges and seniors
- **Comments on appearance** rather than arguments
- **Being addressed as “madam”** with dismissive undertones
- **Sexual harassment** (POSH Act compliance in legal workplaces remains patchy)

THE BENCH: APPOINTMENT ARCHITECTURE

India’s higher judiciary appointments flow through the **Collegium system** — where Supreme Court judges themselves recommend appointments to the HC and SC. The Collegium has been criticised for:

- **Opacity:** No published criteria or timelines
- **Self-perpetuating homogeneity:** Tends to elevate those who resemble the existing bench
- **Geographic bias:** Southern India and certain HC bars are consistently underrepresented

The **National Judicial Appointments Commission (NJAC)** — a constitutional amendment (99th Amendment) that would have introduced government participation in judicial appointments — was struck down by the Supreme Court in 2015 as violating judicial independence. The debate about more transparent, diverse appointment processes remains unresolved.

INTERNATIONAL COMPARISONS

COUNTRY	WOMEN ON HIGHEST COURT
USA (Supreme Court)	3 of 9 (33%)
UK (Supreme Court)	3 of 12 (25%)
Canada (Supreme Court)	5 of 9 (56%)
Germany (Constitutional Court)	7 of 16 (44%)
India (Supreme Court)	1 of 33 (3%)

UPSC MAINS RELEVANCE

GS2 — Polity/Governance: Judiciary independence, Collegium system, NJAC controversy, judicial appointments.

UPSC RELEVANCE

~1.7 million enrolled; ~15% women

COLLEGIUM SYSTEM:

SC judges recommend HC and SC appointments; no statutory basis; evolved through Three Judges Cases (1982, 1993, 1998)

NJAC (99TH AMENDMENT, 2014):

Would have created 6-member commission (CJI + 2 SC judges + Law Minister + 2 eminent persons) for judicial appointments; struck down by SC in 2015

SENIOR ADVOCATE DESIGNATION:

Conferred by HC/SC based on standing, ability, experience; ~5% women among ~5,000 designated Senior Advocates

POSH ACT (2013):

Prevention, Prohibition and Redressal of Sexual Harassment at Workplace; mandatory ICC (Internal Complaints Committee) for employers with 10+ staff — compliance in unorganised legal sector is poor

FIRST WOMAN SC JUDGE:

Justice M. Fathima Beevi (1989)

GENDER PAY GAP IN LAW:

Female associates earn ~15–25% less in top law firms; significant in litigation bar

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